

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:22-cv-00024-MR-WCM**

FRANKENMUTH MUTUAL)
INSURANCE COMPANY,)
)
)
 Plaintiff,)
)
)
 vs.) O R D E R
)
)
NATIONAL BRIDGE BUILDERS, LLC,)
WILLIAM H. WEST, III, WILLIAM H.)
WEST, IV, GEMINI III TRUST, and)
GEMINI IV TRUST,)
)
)
 Defendants.)
)

THIS MATTER comes before the Court on the Defendants William H. West, III, William H. West, IV, Gemini III Trust, and Gemini IV Trust's Motion to Dismiss [Doc. 28]; the Plaintiff's Motion to Enlarge Time to Respond to Certain Defendants' Motion to Dismiss [Doc. 31]; and the Plaintiff's Motion to Voluntarily Dismiss Claims Against Defendants William H. West, III, William H. West IV, Gemini III Trust, and Gemini IV Trust Without Prejudice [Doc. 33].

The Plaintiff moves the Court to enter an Order dismissing the Plaintiff's claims against the Defendants William H. West, III, William H. West IV, Gemini III Trust, and Gemini IV Trust ("the Dismissed Defendants")

without prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. The Defendants do not oppose the Plaintiff's motion. For the reasons stated in the Plaintiff's motion, and in light of the lack of opposition from the Defendants, the Court will grant the Plaintiff's motion for voluntary dismissal of these Defendants.

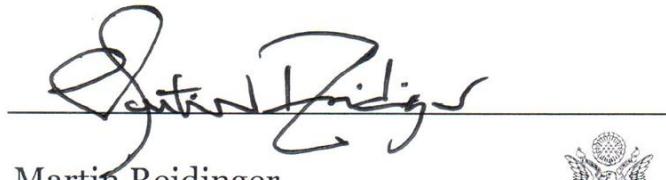
The dismissal of the Plaintiff's claims against the Dismissed Defendants without prejudice results in (1) the dismissal of Count 7 and Count 8 of the Plaintiff's Complaint in their entirety and (2) the partial dismissal of Counts 1 through Count 6 of the Plaintiff's Complaint solely to the extent those Counts sought relief from the Dismissed Defendants. The dismissal of the Plaintiff's claims against the Dismissed Defendants without prejudice also moots both (1) the Dismissed Defendants' Motion to Dismiss [Doc. 28] and (2) the Plaintiff's Motion to Enlarge Time to Respond to the Dismissed Defendants' Motion to Dismiss [Doc. 31]. With the dismissal of these Defendants, the only claims remaining at issue in this action will be the Plaintiff's claims against the Defendant National Bridge Builders, LLC and Defendant National Bridge Builders, LLC's counterclaims against the Plaintiff.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Plaintiff's Motion to Voluntarily Dismiss Claims Against Defendants William H. West, III, William H. West IV, Gemini III Trust, and Gemini IV Trust Without Prejudice [Doc. 33] is **GRANTED**, and these Defendants are hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Defendants William H. West, III, William H. West, IV, Gemini III Trust, and Gemini IV Trust's Motion to Dismiss [Doc. 28] and the Plaintiff's Motion to Enlarge Time to Respond to Certain Defendants' Motion to Dismiss [Doc. 31] are **DENIED AS MOOT**.

IT IS SO ORDERED.

Signed: September 1, 2022



Martin Reidinger
Chief United States District Judge

